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10/588,178

03/20/2007

Grantly Ross Smith

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28863 7590 05/06/2009  
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EXAMINER

BELLINGER, JASON R

ART UNIT

PAPER NUMBER

3617

NOTIFICATION DATE

DELIVERY MODE

05/06/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pairedocketing@ssiplaw.com

|                              |                                       |  |  |
|------------------------------|---------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/588,178  | <b>Applicant(s)</b><br>SMITH, GRANTLY ROSS |  |
|                              | <b>Examiner</b><br>Jason R. Bellinger | <b>Art Unit</b><br>3617                    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 8,9 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,10,11,13,14,16 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 15,17,22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 March 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Election/Restrictions***

1. Claims 8-9 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected embodiments, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 25 February 2009.

2. Applicant's election with traverse of the embodiment shown in Figures 2C, 5, 6A, 7A-D, 8, and 13A-B in the reply filed on 25 February 2009 is acknowledged. The traversal is on the ground(s) that PCT Rule 13.1 is analogous to restriction practice under US Patent law and not election of species, and thus the requirement is improper. This is not found persuasive because election of species type restrictions fall under PCT Rule 13.1. Each embodiment of the invention includes unique physical configurations that are not common to every embodiment, and therefore do not share the same special technical feature. A requirement to elect a single species of the invention is proper under the PCT rules.

The requirement is still deemed proper and is therefore made FINAL.

***Drawings***

3. The drawings are objected to because Figures 2 and 7 are labeled improperly. Currently, these figures include a single label at the bottom of the sheet, and then bullet labels. This is improper. Each drawing figure requires its own label (such as how Figures 6A and 6B are labeled). Corrected drawing sheets in compliance with 37 CFR

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1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.84(h)(5) because Figure 4 show(s) modified forms of construction in the same view. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the

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appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claims 4, 14, 18-19, and 21 are objected to because of the following informalities: The term "spokes(S)" should be replaced with the term --spokes-- in claim 4.

The phrase "any one of claims" should be replaced with the term --claim-- in line 1 of claims 14 and 18.

In line 7 of claim 19, the term "central" should be replaced with the term --centrally--.

The term "via" should be removed from claim 21 due to the fact that this term does not describe any physical features of the invention.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 7, 11, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 is indefinite due to the fact that it is unclear what is actually being claimed by the limitation of an "outward" extension. No directional indicators (i.e. radially, axially, etc.) have been provided to clearly define this limitation.

Claim 19 is indefinite due to the fact that it is unclear how the spokes are extending "inwardly" from the rim. No directional indicators (i.e. radially, axially, etc.) have been provided to clearly define this limitation.

8. The term "flat" in claim 7 is a relative term which renders the claim indefinite. The term "flat" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. No qualitative or quantitative limitations have been provided to clearly define this term.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**10.** Claims 1-5, 10-11, 13-14, 16, and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen ('937). Chen shows a wheel rim 5 including a circular band and a pair of tracks 53 capable of being coupled to at least two spokes 31. The spokes 31 are capable of sliding relative to the track 53 (during installation). The track 53 includes a groove (generally at 511) that receives a plurality of carriages 7 coupled to the ends of the spokes 31. These carriages are operatively coupled to the threaded end of the spokes 31, including a spoke nipple 2. The tracks 53 are formed as an "outward" extension to couple with the carriages 7. The tracks 53 are located on the inner surface of the circular band of the rim 5, and are formed on opposing sides surfaces of the circular band. The carriages 7 are operatively coupled to a strip, namely the tracks 53 (which are strips of material extending from the circular body of the rim 5). The circular band further includes a channel 4 to retain a tire.

**11.** Claims 1-5, 10-11, 13, and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen ('040). Figure 13 of Chen shows a rim including a circular band and at least one track 11 capable of being coupled to at least two spokes 20. The spokes 20

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are capable of sliding relative to the track 11 (during installation). The track 11 includes a groove (generally at 14) that receives a plurality of carriages 30 coupled to the ends of the spokes 20. These carriages 30 are operatively coupled to the threaded end 21 of the spokes 20, including a spoke nipple 23. The track 11 includes an "outward" extension 15 to couple with the carriages 30. The track 11 is located on the inner surface of the circular band of the rim. The circular band further includes a channel to retain a tire.

**12.** Claims 1-3, 6-7, 13, 16, and 19-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Chen ('598). Chen shows a rim 3 formed as a circular band having at least one track 321 capable of being operatively connected to at least two spokes 52, and located on an inner surface. The spokes 52 are capable of sliding relative to the track 321 (during installation). The track 321 includes a groove 33 that receives a plurality of carriages 4 coupled to the non-threaded ends of the spokes 52, which include a hook and "flat" head 521.

**13.** Claims 1-5, 10, 13, 16, and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lo. Lo shows a wheel rim 10 including a circular band and track capable of being coupled to at least two spokes 50. The spokes 50 are capable of sliding relative to the track (during installation). The track includes a groove that receives a plurality of carriages 40 coupled to the ends of the spokes 50. These carriages are operatively coupled to the threaded end of the spokes 50, including a spoke nipple 20. The track is



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located on the inner surface of the circular band of the rim 10. The carriages 40 are formed as a strip. The circular band further includes a channel 4 to retain a tire.

### ***Allowable Subject Matter***

**14.** Claims 15, 17, and 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

**15.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references show wheel rims including spokes mounted to the rim by carriages.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R. Bellinger whose telephone number is 571-272-6680. The examiner can normally be reached on Mon - Thurs (9:00-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason R Bellinger/  
Primary Examiner  
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